

**TOWN OF SULLIVAN
ZONING BOARD OF APPEALS
OCTOBER 14, 2021
7:00 P.M.**

A regular meeting of the Zoning Board of Appeals of the Town of Sullivan was convened at the Town Office Building by Chairman Steve Durfee at 7:00 P.M.

Those in attendance for the meeting were: Chairman Steve Durfee, Members Terry Manning, Bryan Bendixen, Clifford Reals, Michael Keville and Attorney for the Board Richard Andino.

Also present: Larry Ball, Building/Codes Inspector

PUBLIC HEARING

**7:00P.M. - KENNETH CZARNECKI: (1239 PALMER CIRCLE, 9.25-1-12)
INTERPRETATION BY THE BOARD OF A FENCE AS IT RELATES TO THE
TOWN ZONING CODE.**

Kenneth and Sherry Czarnecki appeared before the Board as the public hearing and decision were tabled from the September 9, 2021 meeting. Discussions were held between the Board, Mr. Czarnecki and Larry Ball, Codes Inspector.

No one spoke for or against the application and the public hearing was closed at 7:05 P.M.

**FRANK GAROFALO: AREA VARIANCE (7849 STONE DR., 25.-1-35) FRONT PROPERTY
LINE SETBACK TO BUILD A POLE BARN.**

Frank Garofalo appeared before the Board requesting a front yard area to build a 40' x 50' pole barn on the north side of the property. The property is a corner lot with a unique L shape. The Applicant explained the proposal to the Board and the unique nature of the lot. The Application stated that he cannot move the barn back to be flush with house as there are trees that would have to be removed and the pole barn would then be right on the property line. The pole barn will be 23.5 feet from the front yard property line (Stone Dr.)

The Madison County Planning Board returned the application for Local Determination.

The Town of Sullivan Planning Board sees no adverse Town-wide impact granting this request.

No one spoke for or against the application and the public hearing was closed at 7:15 P.M.

OLD BUSINESS

KENNETH CZARNECKI: (1239 PALMER CIRCLE, 9.25-1-12) INTERPRETATION BY THE BOARD OF A FENCE AS IT RELATES TO THE TOWN ZONING CODE.

The Board discussed the application and the question of whether or not the structure erected by the Czarnecki's is a fence or a trellis. Member Manning read definitions of a fence and trellis he obtained from the internet; Fence: a barrier intended to prevent escape or intrusion or to mark a boundary; Trellis: a frame of latticework used as a screen or as a support for climbing plants.

A written resolution was offered by Member Reals, who moved its adoption, seconded by Member Manning and the Board jointly review the entirety of the resolution and the findings contained therein. Discussion was held regarding context (steps) of obstructed movement and controlling traffic/boundary.

Attorney Richard Andino asked the Board if there was anything they wished to amend. A motion was made by Member Reals, seconded by Member Keville and unanimously passed by the Board to strike finding # 7 and #8. Discussion was held regarding the planter boxes at ground level being allowed but the ZBA determined that would a codes determination. A motion was made by Member Bendixen, seconded by Member Reals and unanimously passed by the Board to amend finding #10 by taking out the last sentence starting with the stated purposes/intent.

The foregoing Resolution as amended was duly put to a vote and declared duly adopted as follows: Aye 3 to Nay 2.

FINDINGS ON APPLICATION FOR INTERPRETATION OF THE TOWN OF SULLIVAN ZONING LAW

October 14, 2021

The following resolution was offered Member Reals, who moved its adoption, seconded by Member Manning, to wit

WHEREAS, an Application for an Interpretation of the Town of Sullivan Zoning Law was submitted to the Town of Sullivan Zoning Board of Appeals on or about August 19, 2021 by Kenneth Czarnecki (1239 Palmer Circle; Tax Map ID No.: 9.25-1-12); and

WHERAS, Mr. Czarnecki is seeking an interpretation of the Town of Sullivan Zoning Law regarding the definition of a fence and whether the construction of what Mr. Czarnecki

describes as a “planter box with trellis” is a “fence” subject to the regulations of the Town of Sullivan Zoning Code; and

WHEREAS, in his application, Mr. Czarnecki contends that construction of materials on his property is a “planter box with a trellis” and not a fence and attached pictures of “fences” and “planter boxes with a trellis” in support of his position; and

WHEREAS, Mr. Czarnecki is further appealing a determination of Larry Ball, the Town Zoning/Code Enforcement Officer, which concluded that the construction of materials on Mr. Czarnecki’s property is a “fence” and therefore was constructed in violation of the Town’s Zoning Code; and

WHEREAS, this matter is a Type II Action for purposes of SEQRA as the Zoning Board is undertaking an interpretation the Town of Sullivan Zoning Code; and

WHEREAS, the Zoning Board of Appeals reviewed this matter at its meetings of September 9, 2021 and October 14, 2021; and

WHEREAS, in reviewing this matter the Town of Sullivan Zoning Board of Appeals considered the following documents: (1) Notice of Violation/Order to Remedy issued by Code Enforcement Officer Larry Ball to Mr. Czarnecki on or about 5/25/21; (2) correspondence from Mr. Czarnecki to Code Enforcement Officer Ball dated 6/2/21; (3) the application for interpretation submitted by Mr. Czarnecki with supporting pictures; and (4) correspondence from Code Enforcement Officer Ball dated September 8, 2021 detailing the basis of his determination that the construction of materials is a “fence”; and

WHEREAS, the Zoning Board of Appeals also considered testimony from the Czarnecki’s and the owner of the neighboring property, Nathan Hungate, which was taken at the public hearing held on this matter on September 9, 2021; and

WHEREAS, based upon the foregoing documentation and testimony the Zoning Board of Appeals makes the following findings:

1. The subject premises is located on Oneida Lake and the neighbors, Mr. Czarnecki and Mr. Hungate are disputing over numerous property issues including the nature of the “fence” v. “trellis with a planter box.”
2. The homes of Mr. Czarnecki and Mr. Hungate are located in close proximity to one another.
3. Mr. Czarnecki installed and constructed a structure/material between 4” and 1’ from the Hungate’s house right along the property line.
4. The structure/material built by Mr. Czarnecki has numerous wooden posts which are installed approximately 4’ into the ground and the structure is not readily moveable as a result; i.e. the structure is permanent in nature.
5. The structure/material is approximately 6’ high made with wooden boards.
6. The structure/material are approximately 20’ in length and runs all along the property line.
7. Notwithstanding the lack of a definition of “fence” in the Town’s Zoning Code/Regulations, the common features of a definition of a “fence” include the construction out of wood or other materials, marking of a property boundary and to control access.
8. As noted above, the nature of the construction of the materials installed by Mr. Czarnecki (wooden posts installed 4’ into the ground and wood board backing; 20’ in length along the property line; approximately 6’ tall) supports the conclusion that the structure/materials installed on Mr. Czarnecki’s property is a “fence” subject to the Town of Sullivan Zoning Code/regulations.

NOW, THEREFORE,

BE IT RESOLVED, that the Town of Sullivan Zoning Board of Appeals hereby agrees with the Zoning/Code Enforcement Officer's interpretation of the Town of Sullivan Zoning Law and determines that the construction of materials on Mr. Czarnecki's property is a "fence" subject to the Zoning Code/regulations of the Town of Sullivan.

The question of the foregoing Resolution was duly put to a vote and upon roll call was as follows:

Steve Durfree	Chairman	Voted	Yes
Clifford Reals	Member	Voted	Yes
Michael Keville	Member	Voted	No
Bryan Bendixen	Member	Voted	No
Terry Manning	Member	Voted	Yes

The foregoing Resolution was thereupon declared duly adopted.

Dated: October 14, 2021

FRANK GAROFALO: AREA VARIANCE (7849 STONE DR., 25.-1-35) FRONT PROPERTY LINE SETBACK TO BUILD A POLE BARN.

The Board jointly reviewed and considered the legal criteria and a proposed resolution for the granting of the requested area variance addressing each of the factors for approval or denial of the application. There are trees and woods located on the property that limit where the pole barn can be constructed. The property is a side lot/corner lot and the pole barn would have no adverse impact on the physical or environmental conditions in the neighborhood.

This application was declared by the Board to be a Type II Action with Negative Declaration for SEQR, thus concluding the environmental review process for this matter.

A motion was duly made by Member Manning, seconded by Member Bendixen and unanimously passed by the Board that the benefit to the applicant does outweigh any detriment to the neighborhood. The variance was approved granting 26.5 feet of relief from the front property line (Stone Dr.) to construct a 40' x 50' pole barn.

APPROVAL OF MINUTES

A motion was duly made by Member Keville, seconded by Member Bendixen and unanimously passed by the Board approving the minutes of September 9, 2021.

ADJOURNMENT

A motion was duly made by Member Keville, seconded by Member Reals and unanimously passed to adjourn the meeting at 8:00 P.M.

Respectfully Submitted
Jeri Rowlingson, Secretary